

Local Law P-4 of 2011 Amending City Code sections 233-11, 233-12 concerning removal, trimming and planting of trees, hedges and other plantings.

Be it enacted by the Common Council of the City of Plattsburgh, as follows:

1. City Code § 233-11 is amended in its entirety to read as follows:

§ 233-11. Removal and Trimming of Trees, Hedges and Other Plantings.

01. Intent. The intent of this section is to prevent damage to public sidewalks and under ground utilities, and insure the safe and unobstructed use of public sidewalks.
02. Persons Responsible. The owner of real property that adjoins a public sidewalk is responsible for removing or trimming trees, hedges and other plantings located on his property that the City of Plattsburgh Building Inspector determines
 - a. are causing damage to public sidewalks and under ground utilities
 - b. or, overhang public sidewalks and restrict or obstruct pedestrians.
 - c. or, obstruct a motor vehicle operator's view of traffic at street intersections or entering or exiting driveways on the owner's property, or adjoining property.
 - d. or, are damaged or diseased and may fall and cause injury to pedestrians or motorists.
03. City Right to Remove or Trim. The City of Plattsburgh may remove or trim trees, hedges and other plantings on an owner's property and recover the entire cost thereof from the property owner as provided in § 233-15 of this Article, or otherwise permitted by law, if the owner fails to act after notice from the City of Plattsburgh.
04. Notice. The Building Inspector shall give written notice to property owners of trees, shrubs and plantings on their property that require removal or trimming.
 - a. Notice may be given personally to the owner, or by certified mail return addressed to the property owner at the name and address listed on the City of Plattsburgh's current real property assessment roll.
 - b. The Notice shall state the reason for requiring removal or trimming and give the location of the tree, shrub or planting.
 - c. The Notice shall give the owner not less than 30 days notice to take the required action, unless the condition presents an imminent danger to public safety in which case the notice shall be what is reasonable under the circumstances.
 - d. The Notice shall advise the property owner that if he fails to take the required action within the time specified in the Notice, and a City department or City retained contractor does the work, the owner will be liable to pay the cost of the work.
 - e. If the City performs the work, the owner shall be charged for City employee time, equipment use time at then prevailing rental rates for similar equipment, material costs (if any) and an administrative charge equal to 10% of the time, equipment and material charges.

- f. If a City retained contractor performs the work, the owner will be liable to pay or reimburse the City the amount paid to the contractor plus an administrative charge equal to 10% of the amount paid the contractor.
 - g. If after receiving Notice a property owner believes he is not in violation of this law, he may bring an action or proceeding for a review of the Building Inspector's determination in City Court, or another court of competent jurisdiction, within 15 days of the date he received such Notice. The standard of review of the Building Inspector's determination shall be those that apply to the review of administrative decisions under Article 78 of New York Civil Practice Law and Rule. The property owner shall serve a copy of his complaint or petition on the City Clerk, or Corporation Counsel, or Mayor and a copy on the Building Inspector. The complaint or petition, or an accompanying paper shall include the following statement in bold face type: "THE ACTION IN THE NOTICE TO ME IS STAYED PENDING A COURT HEARING". Upon receipt of service the City shall not proceed with the work pending the court's decision unless the Building Inspector determines that the conditions constitute an imminent danger to the public.
05. Report to Common Council. By May 31st of each year the Building Inspector shall file a report with the Common Council that identifies public sidewalks where trees, hedges and other plantings require trimming or removal.

2. City Code § 233-12 is amended in its entirety to read as follows:

§ 233-12. Planting of trees, hedges and shrubs.

01. Definitions:
- a. The term "Median Strip" means the area between the street side edge of a public sidewalk and the curb of a City street, or if there is no curb, the edge of the street pavement.
 - b. The term "Street Line Intersection" means the place where the outer edge of the improved surface of a city street intersects the outer edge of the improved surface of an intersecting street.
02. The City Building Inspector is authorized to issue permits to property owners who wish to plant trees in the Median Strip adjoining their property. No trees, hedges or shrubs shall be planted in a Median Strip within thirty feet (30') from a Street Line Intersection.
03. The City may, at its expense, remove trees and stumps located in Median Strips if it determines the tree is diseased or damaged, or its roots are causing damage to the public sidewalk or underground utilities, or the tree obstructs the vision of motorists.
04. New Plantings. A property owner shall not plant a tree or shrub more than thirty inches high on his property that is within five feet (5') from the edge of a public sidewalk or City street. Where the property is a corner lot, the property owner may not plant or allow trees, hedges, or shrubs to grow to a height of more than thirty inches (30") in a triangular area where the street

line intersection is the apex of the triangle, the two sides are thirty feet in length and the base is a line between the ends of the two sides. This subsection applies to plantings after the effective date of this section, however, trees or shrubs planted prior to the effective date of this section may be required to be trimmed or removed if there is a violation of the standards of §233-11.02.

3. Effective Date. This Local Law shall take effect upon approval by the Mayor and filing with the Secretary of State.